

REMARKS

1. In the above-captioned Office Action, the Examiner rejected claims 13 and 26 under 35 U.S.C. §112, second paragraph. Claims 1-27 were rejected under 35 U.S.C. §103(a) given Ma (U.S. Patent No. 5,727,384) in view of Izawa et al. (U.S. Patent No. 6,005,761) or Ohsaka et al. (U.S. Patent No. 6,205,010). These rejections are traversed and reconsideration is hereby respectfully requested.

2. The Examiner rejected claims 13 and 16 under 35 U.S.C. §112, second paragraph because the last 4 lines are confusing and unclear. Claims 13 and 26 as amended above are in compliance with 35 U.S.C. §112, second paragraph.

3. Claims 1-27 were rejected under 35 U.S.C. §103(a) given Ma in view of Izawa or Ohsaka.

As set forth in the Remarks of the Applicant's amendment faxed on February 16, 2005 to the USPTO, if Izawa and Ma could be combined, the pre-cycle warm-up would only be eliminated prior to a catastrophic failure of the *driver*, **not** the *second electronic component*, e.g., a glow plug, and no benefits, as provided by the present invention, would be realized.

The combination of references cited by Examiner renders the combined art unsatisfactory for the purpose intended by the claimed invention. See MPEP 2145 X(D). Examiner states in the Final Office Action that:

"(t)he motivation for combining the references is that by using a protective arrangement for protecting the driver (1st electronic component) of the load device (2nd electronic component) as taught by either of Izawa and Ohsaka it would prevent the driver (1st electronic component) from burning out due to overheating and also as a result also protect the load device which if applied to Ma would be the glow plugs and would result in a reduced pre-cycle warm-up time." Page 4, lines 3-8.

A combination of Ma and Izawa would result in the catastrophic failure of the second electronic component, for example, when the driver is more robust than the second electronic component. Ohsaka and Izawa are directed at preventing catastrophic part failure due to overheating or overcurrent and are not directed in any way to reducing pre-cycle warm-up, and a combination of Ma and Ohsaka would not result in the invention as claimed.

Additionally, Ma teaches away from the solution provided by the present application, and teaches away from the temperature measurement approaches provided by Izawa and Ohsaka because Ma states that "temperature sensing elements available do not have the required proven durability and direct temperature measurement is not currently an available solution [to] this problem" [Column 1, lines 21-35]. Thus, one of skill in the art would not be motivated to combine these references based on such teachings. Maintaining an obviousness rejection in view of a reference that teaches away from the claims is not in accord with the MPEP.

The Examiner's arguments fail to address or account for the differences in his combination of Ma and Izawa or Ohsaka, as set forth by the following example that shows how the present invention is distinct over this combination of references. Ma estimates the temperature of a non-electronic component, the hot operating system, based on the time elapsed since the last time the engine was switched off. Given Ma's teachings, if the engine was last turned off a very long time ago and it was very cold outside, rendering the hot operating system cold by Ma's standards, but numerous unsuccessful attempts to turn the engine over (e.g., the engine did not start) took place over the last few minutes, Ma would allow the rapid heating system to turn on, even though the numerous unsuccessful attempts to turn the engine over have either warmed up the rapid heating system sufficiently or even overheated/damaged the rapid heating system, because Ma triggers his rapid heating system based on the last time the engine turned off. Thus, if the engine does not turn over, but his rapid heating system is engaged, the system taught by Ma is *useless* to protect his rapid heating system. The present invention, however, will protect the components in the same situation because of the elements provided in the claims. Neither Izawa nor Ohsaka teaches or suggests how to modify Ma to overcome this and other shortcomings of Ma. Neither Izawa nor Ohsaka teach or suggest the problems of Ma that the present application has solved, neither teaches pre-cycle warm-up, and further both references try to solve a different problems than pre-cycle warm-up, hence one of skill in the art would not look to Izawa nor Ohsaka to handle pre-cycle warm-up in conjunction with Ma.

The Examiner's arguments are based on hindsight. The Examiner has taken items out of context and combined them without motivation, in effect producing the words of the claims, without their meaning or context, and without the results of the invention as claimed. The resultant combination would not yield the invention as claimed because of gaps in these teachings that are not overcome by providing the combination as stated by the Examiner.

The claims of the present invention are not taught or suggested by Ma, Izawa, and/or Ohsaka. Combining these references fails to teach or yield the invention as claimed. The combination of these references fails to teach or suggest all the elements of the claims. Further, one of skill in the art would not be motivated to make such a combination. Therefore, the present invention is not obvious in light of any combination of Ma, Izawa, and/or Ohsaka.

Other arguments and statements set forth in the February 2005 Amendment, including those directed at the dependent claims, are maintained and will not be repeated for the sake of brevity.

Furthermore, claims 2-12, 14, and 16-27 are dependent upon an independent claim that is shown to be allowable. For all these reasons, the dependent claims are themselves allowable.

4. No new subject matter is introduced by the amendments to the above claims.

5. The above amendment and response is necessary because it places the application in condition for allowance and was not previously entered because the Examiner first addressed the Applicant's arguments and further explained the grounds of rejection in the Final Office Action.

6. The Examiner is invited to contact the undersigned by telephone or facsimile if the Examiner believes that such a communication may advance the prosecution of the present application. Notice of allowance of claims 1-27 is hereby respectfully requested.

Respectfully submitted,

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By: Susan L. Lukasik

Susan L. Lukasik
Registration No. 35,261
Attorney for Applicant
International Engine Intellectual Property
Company, LLC
Voice: (630) 753-2172
Fax: (630) 753-3982